

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ZIEGLER INDUSTRIES, INC., a)	
Wisconsin corporation,)	
)	4:09CV3230
Plaintiff,)	
)	
v.)	REPORT AND RECOMMENDATION
)	
KATANA SUMMIT, L.L.C., a Delaware)	
limited liability company,)	
)	
Defendant.)	

The plaintiff's complaint, originally filed in the District Court of Platte County, Nebraska on October 26, 2009, was removed to this forum on November 10, 2009. Filing No. 1. The defendant's notice of removal states federal diversity jurisdiction exists because the defendant, Katana Summit, L.L.C. is a Delaware limited liability company with its principal place of business in Columbus, Nebraska; the plaintiff is a Wisconsin corporation; and the amount in controversy, (\$89,960.74), exceeds \$75,000. Filing No. 1, at CM/ECF pp. 2-3.

The plaintiff seeks remand, claiming the "action was improperly removed insofar as the Defendant failed to meet its burden to establish that none of the Defendant limited liability company's members were citizens of the State of Nebraska." Filing No. 10, at p. 2. For the purposes of determining diversity jurisdiction, a limited liability company's citizenship is based on the citizenship of its members. [GMAC Commercial Credit LLC v. Dillard Dept. Stores, Inc., 357 F.3d 827, 828 \(8th Cir. 2004\)](#) (citing [Carden v. Arkoma Assocs., 494 U.S. 185, 195-96 \(1990\)](#)).

In response to the plaintiff's motion for remand, the defendant filed evidence showing plaintiff Ziegler Industries, Inc. is a Wisconsin corporation with its principal place of business in the state of Illinois, and the members of defendant Katana Summit, L.L.C. include:

- Sumitomo Corporation of America, a New York corporation with its principal place of business in the state of New York.;
- Katana Industries, Inc, a Washington corporation with its principal place of business in the state of Washington; and

-- SC Steel Investments, LLC., a limited liability company whose sole member is Sumitomo Corporation, which is a Japanese corporation with its principal place of business in Japan.

Filing No. [13](#).

Based on the undisputed evidence, complete diversity exists. The plaintiff's motion for remand should be denied.

IT THEREFORE HEREBY IS RECOMMENDED to the Honorable Richard G. Kopf, United States District Judge, pursuant to [28 U.S.C. § 636\(b\)](#), that the plaintiff's motion for remand, (filing no. [10](#)), be denied.

The parties are notified that failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation.

DATED this 25th day of January, 2010.

BY THE COURT:

s/ Cheryl R. Zwart
Cheryl R. Zwart
United States Magistrate Judge